

Colorado's Job Application Fairness Act Restricts Employers' Ability to Request Age-Related Information From Applicants

June 6, 2023



Michael H. Bell

Denver
Dallas

Author



Rebecca M. Lindell

Denver
Salt Lake City

Author



Lys M. Runnerstrom

Denver

Author

On June 2, 2023, Colorado enacted the [Job Application Fairness Act](#) (JAFA), joining California, [Connecticut](#), Minnesota, and Pennsylvania as states prohibiting employers from requesting age-related information during the hiring process. Starting on July 1, 2024, JAFA will bar Colorado employers from requesting or requiring that job applicants provide information related to "age, date of birth, or dates of attendance at or graduation from an educational institution" on initial employment applications.

Quick Hits

Effective July 1, 2024, employers are barred from requesting applicants to provide age-related information, but are permitted to ask them to confirm whether they meet certain age restrictions.

Penalties include warnings and compliance orders for a first violation, \$1,000 for a second violation, and \$2,500 for each third and subsequent violation.

While JAFA permits employers to require applicants to provide copies of certifications or transcripts "at the time of an initial employment application," they must notify applicants that they may redact information identifying age, date of birth, and/or dates of attendance at or graduation from an educational institution. JAFA also allows employers to request that applicants verify compliance with age requirements that are required by (1) "a bona fide occupational qualification pertaining to public or occupational safety," (2) "a federal law or regulation," or (3) "a state or local law or regulation based on a bona fide occupational qualification." Even so, such verification requests may not require disclosure of an individual's specific age, date of birth, or dates of attendance at or graduation from an educational institution on an initial employment application.

Penalties for violations of JAFA increase with each subsequent violation. For a first violation, an employer may receive a warning and an order requiring compliance within fifteen business days. A second violation carries an order requiring compliance within fifteen business days as well as a civil penalty of up to \$1,000, and the civil penalty increases to a maximum of \$2,500 for a third and subsequent violation. For purposes of assessing penalties, "each distinct job posting violating [the statute] constitutes a separate violation."

JAFA adds to the restrictions already placed on the types of information Colorado employers may request from applicants. Since September 1, 2021, Colorado's [Chance to Compete Act](#), commonly known as "ban the box" legislation, has prevented

employers with eleven or more employees from stating in an advertisement for employment that a person with a criminal history may not apply. The Chance to Compete Act, similar to Jafa, further prohibits employers from inquiring into, or requiring disclosure of, an applicant's criminal history on an initial employment application.

Colorado employers may want to review their job postings and advertisements, as well as employment applications and the corresponding hiring processes, in preparation for ensuring compliance with Jafa come summer 2024. Employers may also want to train employees involved in the hiring and interviewing process concerning Jafa's restrictions.

Ogletree Deakins' [Denver office](#) will continue to monitor developments pertaining to restrictions on requested employment application information and will provide updates on the [Colorado](#) blog as additional information becomes available.

Follow and Subscribe

[LinkedIn](#) | [Twitter](#) | [Webinars](#) | [Podcasts](#)